

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
FOR THE FOURTH CIRCUIT  
Richmond, VA (3/19/2019 - 3/21/2019 Session)  
Tuesday, March 19, 2019

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18-1372 [Briefs](#)  
TKC Areospace Inc. v. Charles Muhs  
( O'Grady )

BANKRUPTCY: Propriety of district court's ruling that collateral estoppel applies and that entire debt is not dischargeable in bankruptcy.

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18-0276 [Briefs](#)  
Dominion Energy, Inc. v. City of Warren  
( Seymour )

CLASS ACTION: Whether 28 U.S.C. section 1332(d)(9) of the Class Action Fairness Act applies, thereby preventing the removal of the case to federal court.

Associations: 18-1844, 18-0310, 18-2066

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18-1763 [Briefs](#)  
Russell Brammer v. Violent Hues  
( Hilton )

COPYRIGHT: Whether district court erred by determining that defendant's use of plaintiff's photograph constituted "fair use" under the Copyright Act.

PANEL I  
Red Courtroom (Room 412)  
9:30 a.m.

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18-2486 [Briefs](#)  
In re: Donald J. Trump

MANDAMUS: Whether mandamus should issue to compel district court to certify an interlocutory appeal under 28 U.S.C. section 1292(b).

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18-2488 [Briefs](#)  
District of Columbia v. Donald J. Trump  
( Messitte )

CONSTITUTIONAL LAW: Appeal from district court's deferral of ruling on individual capacity claims brought against President under Emoluments Clauses.

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18-6754 [Briefs](#)  
US v. Kevin Battle  
( Hollander )

SENTENCING: Whether Maryland conviction for assault with intent to commit murder is a violent felony under the ACCA.

PANEL II  
Butzner Courtroom 201  
9:30 a.m.

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18-1809 [Briefs](#)  
Omar Thompson v. William Barr

IMMIGRATION: Whether conviction for custodial indecent liberties under Virginia law constitutes an aggravated felony crime of sexual abuse of a minor under the INA.

PANEL III  
Blue Courtroom (Room 339)  
9:30 a.m.

Tuesday, March 19, 2019

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17-7148 [Briefs](#)  
US v. Antwaun Winbush  
( Copenhaver )

SENTENCING: Whether counsel was ineffective for failing to argue Ohio third-degree robbery was not an enumerated crime of violence under USSG section 4B1.2(a)(2).

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18-6096 [Briefs](#)  
Jermaine Moss v. Kenny Atkinson  
( Dever )

POSTCONVICTION: Whether section 2241 petition should be remanded for further consideration in light of United States v. Wheeler, 886 F.3d 415 (4th Cir. 2018).

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17-2291 [Briefs](#)  
Sindy Alvarez-Lagos v. William Barr

IMMIGRATION: Whether the denial of protection under the Convention Against Torture is supported by substantial evidence; related issues.

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18-1655 [Briefs](#)  
Akira Technologies, Inc. v. Conceptant, Inc.  
( O'Grady )

CIVIL: Whether district court abused its discretion in denying motion for attorney's fees; applicable standard of proof.

PANEL IV  
Gold Courtroom (Room 348)  
9:30 a.m.

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17-2013 Christopher Chin-Young v. US ( Hilton ) Associations: 17-2017	<a href="#">Briefs</a>	EMPLOYMENT: Whether action presents "mixed case" within subject matter jurisdiction of district court and this Court; application of res judicata and collateral estoppel.
18-1067 Justin Kelly v. Sarah Conner ( Cayer )	<a href="#">Briefs</a>	CIVIL: Various issues arising in connection with arrest for violation of North Carolina's Private Protective Services Act.
18-4727 US v. Benjamin Galecki ( Jackson ) Associations: 18-4730	<a href="#">Briefs</a>	CRIMINAL: Whether district court erred in finding DEA expert's opinion not material; propriety of exclusion of defense witnesses; other issues.
18-6041 US v. Randall Cornette ( Reidinger )	<a href="#">Briefs</a>	POSTCONVICTION: Whether collateral review waiver applies to Section 2255 motion based on Johnson; Simmons issue; whether Georgia burglary qualifies as violent felony under the ACCA.

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PANEL V  
Tweed Courtroom (Room 414-D)  
9:30 a.m.

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UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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17-2449 [Briefs](#)  
Larry Hurlburt v. Juliet Black  
( Flanagan )

REHEARING EN BANC

Butzner En Banc Courtroom 201  
9:00 a.m.

Wednesday, March 20, 2019

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT  
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17-4427 [Briefs](#)  
US v. Patrick Sutherland  
( Cogburn )

CRIMINAL: Whether Government was required to prove nexus between defendant's conduct and obstruction of official proceeding for 18 U.S.C. section 1512(c)(2) offense; other issues.

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18-1638 [Briefs](#)  
Michael Small v. Welldyne, Inc.  
( Boyle )

CIVIL: Challenge to grant of summary judgment to defendant mail-order pharmacies based on decedent's contributory negligence for ingesting misdelivered prescription medications; other issues.

PANEL I  
Red Courtroom (Room 412)  
After the en banc session.

Wednesday, March 20, 2019

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18-2167 [Briefs](#)  
Dennis Fusaro v. Emmet Davitt  
( Hollander )

CIVIL RIGHTS: Whether Maryland Election Law section 3-506 violates the First Amendment by restricting access to and use of Maryland's registered voter list.

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18-1427 [Briefs](#)  
United National Insurance Co. v. Peninsula  
( Russell )

CONTRACT: Whether Appellee's alleged gross negligence or breach of contract should have precluded its enforcement of subrogation waiver; other issues.

PANEL II  
Butzner Courtroom 201  
After the en banc session.

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18-1366 [Briefs](#)  
J. Gilliam v. Kenneth Sealey  
( Boyle )

Associations: 18-1402

CIVIL RIGHTS: Whether denial of summary judgment motion citing qualified immunity is based on existence of factual issues or on whether right asserted was clearly established.

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18-6980 [Briefs](#)  
Ronnie Long v. Erik Hooks  
( Eagles )

HABEAS: Challenge to district court's determination that the state court did not unreasonably apply Brady v. Maryland by concluding that certain suppressed evidence was immaterial.

PANEL III  
Blue Courtroom (Room 339)  
After the en banc session.

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18-4660 [Briefs](#)  
US v. James Hill, III  
( Gibney )

CRIMINAL: Whether 18 U.S.C. section 249(a)(2) is valid exercise of Commerce Clause authority as applied to workplace assault interfering with preparation of goods for interstate shipment.

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18-1527 [Briefs](#)  
In re: Carlos Brown

MANDAMUS: Whether denial of restitution for lost earnings violated court's obligation to ensure the victim's right to restitution under the Crime Victims' Rights Act.

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18-6844 [Briefs](#)  
US v. Sergio Murillo  
( Trenga )

POSTCONVICTION: Whether non-citizen habeas petitioner established ineffective assistance of counsel pursuant to Lee v. United States, 137 S. Ct. 1958 (2017); other issues.

PANEL IV  
Gold Courtroom (Room 348)  
After the en banc session.

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18-1423 [Briefs](#)  
L-3 Communications Corporation v. Serco,  
( Ellis )

CIVIL: Whether district court erred in ruling Appellants had no business expectancy in task orders and granting Appellee summary judgment on their tort claims.

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18-1290 [Briefs](#)  
Wards Corner Beauty Academy v. Natl  
( Davis )

CIVIL: Propriety of district court's conclusion that Commissioner was impartial when participating in decision to withdraw Appellant's accreditation; other issues.

PANEL V  
Tweed Courtroom (Room 414-D)  
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18-1600 [Briefs](#)  
Glenda Westmoreland v. TWC  
( Cogburn )

EMPLOYMENT: Whether district court erred in denying Defendant's motion for judgment as a matter of law on age discrimination claim; other issues.

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18-1198 [Briefs](#)  
Erie Insurance Company v. Amazon.com,  
( Titus )

CIVIL: Whether Amazon is seller of products when third party utilizes its "Fulfillment by Amazon" service to ship those products to customers.

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18-4010 [Briefs](#)  
US v. Ezekiel Dennison  
( Wooten )

CRIMINAL: Whether remedy is warranted where criminal judgment incorrectly describes supervised release violation.

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17-4701 [Briefs](#)  
US v. Leonard Bernard  
( Whitney )

CRIMINAL: Whether search of vehicle exceeded scope of driver's consent; whether driver was subjected to interrogation after his arrest.

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18-1733 [Briefs](#) CIVIL RIGHTS: Appeal from qualified immunity dismissal of claim that police defendants' "stand down" order at  
Robert Turner v. Al Thomas, Jr. rally was affirmative act that constituted state-created danger.  
( Moon )

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18-6086 [Briefs](#) HABEAS: Whether alien in "withholding-only" proceedings is entitled to a bond hearing.  
Maria Guzman Chavez v. Russell Hott  
( Brinkema )  
Associations: 18-6419

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18-1344 [Briefs](#) CIVIL: Whether fraud claims were time-barred.  
Alfred Snapp, Jr. v. Lincoln Financial  
( Dillon )

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18-4143 [Briefs](#) SENTENCING: Whether 120-month sentence, representing an 83-month upward variance, is procedurally and  
US v. Willie McCall substantively reasonable.  
( Faber )

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17-1811 [Briefs](#)  
Northrop Grumman Systems Corp. v. US  
Associations: 17-2204

LABOR: Whether discharged employee engaged in protected activity under Sarbanes-Oxley Act's whistleblower protection provision; other issues.

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16-1703 [Briefs](#)  
Life Technologies Corp. v. Krishnamurthy  
( Titus )

TRADEMARK: Whether the district court has the authority to hold a nonparty corporate officer personally liable for attorney's fees and damages arising out of a complaint against the corporation alleging trademark infringement.

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Blue Courtroom (Room 339)  
8:30 a.m.

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18-2160 [Briefs](#)  
David Schwartz v. J.J.F. Management  
( Messitte )

CIVIL: Appeal from district court's denial of third-party claimant's motion to intervene in garnishment proceeding and its claim to superior right to garnished funds.

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17-2263 [Briefs](#)  
Latham Bean v. Upsher-Smith  
( Harwell )

CIVIL: Whether South Carolina failure-to-warn claim is preempted by the Federal Food, Drug, and Cosmetic Act; application of the learned intermediary doctrine.

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18-4531 [Briefs](#)  
US v. Bryshun Furlow  
( Currie )

SENTENCING: Are drug conviction under S.C. Code section 44-53-375(B), Georgia arson conviction, proper predicates for career offender and/or armed career criminal enhancements?

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Gold Courtroom (Room 348)  
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18-1617 [Briefs](#) IMMIGRATION: Whether substantial evidence supports the agency's nexus analysis in Petitioner's claims for  
Abner Perez-Morales v. William Barr asylum and withholding of removal; other issues.

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18-6225 [Briefs](#) CRIMINAL: Whether error in presentence report that defendant had prior convictions for crime of violence was  
US v. Lamont Vanderhorst "clerical" under Fed. R. Crim. P. 36.  
( Hudson )

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18-1183 [Briefs](#) CONTRACT: Whether district court erred in granting summary judgment to Appellee in breach of contract claim.  
Dexter Edwards v. Genex Cooperative, Inc.  
( Boyle )

PANEL V  
Tweed Courtroom (Room 414-D)  
8:30 a.m.

Thursday, March 21, 2019